## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

WILLIAM MATTHEWS and MIRIAM THOMPSON, individually, and W.M., MINOR, by and through her	) ) )
natural parents and next of kin, WILLIAM	)
MATTHEWS AND MIRIAM THOMPSON,	
Plaintiffs,	) No. 2:23-cv-2635-SHL-cgc
v.	)
RIVERGROVE APARTMENTS, LLC,	)
Defendant.	)

## ORDER DENYING PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Before the Court is the Plaintiffs William Matthews and Miriam Thompson, individually, and W.M., minor, by and through her natural parents and next of kin, William Matthews and Miriam Thompson's Corrected Stipulation of Voluntary Dismissal without Prejudice, <sup>1</sup> filed February 2, 2024, and signed by Plaintiffs' counsel only. (ECF No. 31.) The notice purports to dismiss, without prejudice, Plaintiffs' action against Defendant Rivergrove Apartments, LLC, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). (Id. at PageID 139.)

Defendant filed an answer to Plaintiffs' Complaint on October 6, 2023. (ECF No. 6.) Because of that, a notice of dismissal pursuant to Rule 41(a) signed by only one party is improper, even if that notice includes the plural noun "parties" and the plural possessive adjective "their." (ECF No. 31 at PageID 139.) Rule 41(a) is unequivocal—the stipulation of dismissal must be "signed by all parties who have appeared." See Fed. R. Civ. P. Rule

<sup>&</sup>lt;sup>1</sup> Plaintiffs' initial Stipulation of Voluntary Dismissal without Prejudice (ECF No. 30), is also **DENIED**.

41(a)(1)(A)(ii). Because Plaintiffs' notice is improper under the Federal Rules of Civil

Procedure, dismissal is **DENIED**.

Additionally, because a minor is involved, this Court might need to serve "as arbiter to

decide in the case of [the] minor's claim what is fair and reasonable and in the best interest of the

minor." Dean v. Holiday Inns, Inc., 860 F.2d 670, 673 (6th Cir. 1988) (emphasis in original). If

a settlement was reached between the Parties, then "[f]airness of the settlement must be

determined by the trial court . . . since [minors] are unable to care for themselves, [they] deserve

the court's protection." Id. (quoting Centala v. Navrude, 186 N.W.2d 35, 36 (Mich. Ct. App.

1971)). District courts would be "remiss if [they did not make] an independent determination

that the settlement was in the minor's best interest." Green v. Nevers, 111 F.3d 1295, 1301 (6th

Cir. 1997). Thus, the Parties are **ORDERED** to disclose whether a settlement was reached with

the minor, W.M.

IT IS SO ORDERED, this 6th day of February, 2024.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN

CHIEF UNITED STATES DISTRICT JUDGE

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